Supreme Court, U.S.
FILED

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No. OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

WADE N. SCHOFIELD,

Petitioner,

VS.

STATE OF UTAH,

Respondent.

On Petition For Writ Of Certiorari
To The Utah Supreme Court

PETITION FOR WRIT OF CERTIORARI

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43 pp

QUESTIONS PRESENTED

Whether the state district court has subject matter jurisdiction over a criminal matter filed by the State of Utah where the defendant was a 17-year-old minor child when the last of the alleged offenses was committed but was 22 years of age at the time of filing of the criminal Information.

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PETITION FOR WRIT OF CERTIORARI

Petitioner, WADE N. SCHOFIELD ("Schofield") respectfully prays that a Writ of Certiorari issue to review the judgment of the Utah Supreme Court entered on December 27, 2002.

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OPINION BELOW

On December 27, 2002, the Utah Supreme Court entered its opinion affirming the State District Court's decision denying Schofield's Motion to Dismiss Information. The opinion is reprinted in this petition as Appendix 1.

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STATEMENT OF JURISDICTION

Jurisdiction of this Court is provided under 28 U.S.C. 1257 (a), and pursuant to Rule 13 (1) of the Supreme Court Rules.

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CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. Amend. XIV, Sec. 1. provides:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law;
>
> nor deny to any person within its jurisdiction the equal protection of the laws.

Utah Code Ann. sect. 78-3a-104 (2000) provides:

> (1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:
>
> > (a) a minor who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

Utah Code Ann. sect. 78-3-4 (2000) provides:

> (1) The district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.

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STATEMENT OF THE CASE

On November 16, 1999, the Division of Child and Family Services ("DCFS") for Utah County, State of Utah, faxed to the Syracuse Police Department in Syracuse, Utah, a child sexual abuse report that was taken from purported victims, J.S. and C.S. The matter was referred to Detective Mark Sessions, who contacted DCFS in Utah County and arranged interviews with J.S. and C.S. at the Children's Justice Center in Provo, Utah with a DCFS worker. The interviews were held on November 22, 1999. During the interviews, J.S. and C.S. both alleged that their uncle, Wade N. Schofield, had sexually abused them when he was 16-17 years old and J.S. was 6-7 years old and C.S. was 9-10 years old, or specifically from the period September 1994 to February 1995. On November 23, 1999, Det. Sessions contacted Schofield and asked him to come to the Syracuse police station to speak with him. Schofield did so and made statements that are incriminating which the State of Utah seeks to use against him. Schofield was advised by Det. Sessions that he would refer the matter to the Davis County Attorney's Office. On March 13, 2000, a criminal Information was filed in this matter and Schofield appeared before the state district court. The criminal Information alleges one count of Rape of a Child, in

violation of Utah Code Ann. sect. 76-5-402.1 (1994); two counts of Sodomy Upon a Child, in violation of Utah Code Ann. sect. 76-5-403.1 (1994); and two counts of Aggravated Sexual Abuse of a Child, in violation of Utah Code Ann. sect. 76-5-404.1 (3)(f)(g) (1994). The maximum penalties allowed by law include mandatory incarceration at the Utah State Prison for a minimum period of 15 years to life. If adjudicated as a juvenile, the maximum penalties allowed by law include placement at a detention facility until age 22.

The issue for consideration in this petition is whether the Utah Supreme Court decision allowing the state district court subject matter jurisdiction over Schofield as an adult for alleged offenses committed while he was a minor child 1) violates the due process clause of the Fourteenth Amendment of the United States Constitution, and 2) is an improper conveyance of subject matter jurisdiction.

The issue was preserved in the trial court by Schofield's filing a timely Motion to Dismiss Information and Memorandum in Support of Motion to Dismiss Information (jurisdiction issue -- mistakenly referred to as "personal" rather than "subject matter", p. 3; 14th Amendment issues, pp. 9-10). The State filed a Memorandum in Opposition to

Defendant's Motion to Dismiss Information. The district court denied the motion in its Ruling on Defendant's Motion to Dismiss Information, a copy of which is reprinted as Appendix 2 (jurisdiction issue, App. 2, p. 3; 14th Amendment issue, App. 2, p. 6). A Petition for Interlocutory Review by the Utah Supreme Court was filed and granted. Schofield filed an Appellant's Brief (jurisdiction issues, pp. 6-10; 14th Amendment issues, pp. 3-4) and the Utah Supreme Court heard oral argument. The Utah Supreme Court affirmed by interlocutory review (jurisdiction issue, App. 1, paras. 4,11; 14th Amendment issue, App. 1, fn 3). The matter is still pending in the state district court. In addition, "lack of subject-matter jurisdiction is a nonwaivable defect which may be raised by any party at any time." *United States v. Chambers*, 944 F.2d 1253, 1259-60 (6th Cir. 1991), citing *Insurance Corp. Of Ireland v. Compagnie des Bauxites*, 456 U.S. 694, 703-04, 102 S.Ct. 2099, 2104-05, 72 L.Ed.2d 492 (1982) (footnote omitted) (quoting *International Shoe Co. V. Washington*, 326 U.S. 310, 316 (1945)).

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REASONS FOR GRANTING THE PETITION

I. Utah Supreme Court Decision Conveys Subject Matter Jurisdiction Upon State District Court in Violation of Federal Constitutional Due Process Guarantees

Utah law has been interpreted by the highest state court to confer jurisdiction to the district court over Schofield. It is not disputed that the only allegations found in the criminal Information relate to acts he committed while he was a minor child, which are, by definition, not criminal acts.

A. Juvenile Accountability Differs From Adult Accountability

It is repugnant to the United States Constitution, Amendment 14, providing for due process of law that an individual can be held accountable as an adult for acts committed as a juvenile. History – legislative and societal – is replete with examples of why juveniles and their acts are not held accountable under the same standards as adults. "'Legislative determinations distinguishing juveniles from adults abound. These age-based classifications reveal much about how our society regards juveniles as a class, and about societal beliefs regarding adolescent levels of responsibility.'" *In Re Stanford*, 123 S.Ct. 472, 473 (2002) (dissenting opinion),

citing *Stanford v. Kentucky*, 492 U.S. 361, 395-396 (1989). Practically speaking, "minors are treated differently from adults in our laws, which reflects the simple truth derived from communal experience that juveniles as a class have not the level of maturation and responsibility that we presume in adults and consider desirable for full participation in the rights and duties of modern life." *Stanford* at 473. Simply put, "'youth crime . . . is not exclusively the offender's fault; offenses by the young represent a failure of family, school, and the social system, which share responsibility for the development of America's youth.'" *Stanford* at 474, citing Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders, Confronting Youth Crime 7 (1978).

B. Utah Juvenile Court Act Compared to the Federal Juvenile Delinquency Act

The Utah Juvenile Court Act is found at Utah Code Ann. sect. 78-3a-101 et. seq. (2000).

The Utah statute defining juvenile court jurisdiction reads as follows:

> (1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:

> (a) a minor who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

Utah Code Ann. sect. 78-3a-104 (2000).

The Utah statute defining district court jurisdiction reads as follows:

> (1) The district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.

Utah Code Ann. sect. 78-3-4 (2000).

The Utah statute defining "minor" says that is "a person under the age of 18 years. It includes the term 'child' as used in other parts of this chapter." Utah Code Ann. sect. 78-3a-103 (1) (q) (2000). This definition mirrors the federal counterpart found in the Federal Juvenile Delinquency Act, 18 U.S.C. 5031 et. seq. (1980), a "'juvenile' is a person who has not

attained his eighteenth birthday." The JDA defines juvenile delinquency acts as a "violation of a law of the United States committed by a person prior to his eighteenth birthday which would have been a crime if committed by an adult." *Id.* Utah statutes specifically define juvenile delinquencies as civil matters, not criminal:

> (1) Except as provided in Sections 78-3a-602 and 78-3a-603, proceedings in minor's cases shall be regarded as civil proceedings with the court exercising equitable powers.
>
> (2) An adjudication by a juvenile court that a minor is within its jurisdiction under Section 78-3a-104 is not considered a conviction of a crime, except in cases involving traffic violations. . . .
>
> (3) A minor may not be charged with a crime or convicted in any court except as provided in Sections 78-3a-602 and 78-3a-603, and in cases involving traffic violations. When a petition has been filed in the juvenile court, the minor may not later be subjected to criminal prosecution based on the same facts except as provided in Section 78-3a-602 or 78-3a-603.

Utah Code Ann. sect. 78-3a-117 (2000). Utah Code Ann. sects. 78-3a-602 and 603 (2000) are the adult certification statutes, which are not applicable to Schofield because they were not

enacted until after the alleged offenses in question occurred.

Interestingly enough, the Utah Legislature has provided in its Juvenile Court Act a section for "Adult Offenses," granting concurrent jurisdiction and delineating six crimes that can be prosecuted either in the juvenile court, district court, or justice court "otherwise having subject matter jurisdiction." Utah Code Ann. sect. 78-3a-801 (2000) (the six crimes are sale/supply of alcohol to minor; failure to report child abuse/neglect; harboring a minor; custodial interference; contributing to the delinquency of a minor; and failure to comply with compulsory education requirements).

Despite the limited concurrent jurisdiction provision mentioned above, both the Utah state district court and the state juvenile court cannot *both* have exclusive, original jurisdiction in an action involving what are otherwise defined as delinquent acts. See *Dimmitt v. City Court of Salt Lake City*, 21 Utah.2d 257, 444 P.2d 461 (Utah 1968).

C. Federal Cases Interpreting FJDA Applicability

In a series of four cases decided from 1980 to 1987, in the Ninth, Eleventh and Second Circuits, those federal circuit courts declined to find that persons who committed offenses that would be federal crimes if committed by adults but who did so under the age of 18 were entitled to the benefits and protection of the Federal Juvenile Delinquency Act, 18 U.S.C. 5031 et. seq. (1982 and 1985) ("JDA").

In the first such case, *United States v. Doe*, 631 F.2d 110 (9th Cir. 1980), the court actually found that the JDA did apply. The court; however, rejected Doe's argument that because she turned 21 before the sentence could be carried out the charges had to be dismissed for lack of jurisdiction. Essentially, personal jurisdiction had been established over Doe because she was under 21 when the case was brought and decided; subject matter jurisdiction existed because the acts complained of were committed by her before her 18th birthday. In addition, the JDA had been amended to address just this predicament, allowing for continuing jurisdiction over persons coming within the act, if over nineteen at the time of disposition, beyond their 21st birthday. *Doe* at 111-12.

In the second of the cases, *United States v. Araiza-Valdez*, 713 F.2d 430 (9th Cir. 1980), the circuit court refused to

allow Valdez the protection of the JDA where, even though his charges were committed before and filed before he turned 18, he had fled the jurisdiction and remained a fugitive in Mexico for over 7 years. Upon his return to the United States, at the age of 24, the district court denied his motion to dismiss the indictment that was filed against him as an adult in his absence, relying on that portion of the JDA requiring the juvenile to give consent to the government to proceed against him as a juvenile in federal court, noting that he had failed to ever do so before his lengthy, voluntary absence. *Valdez* at 431, citing 18 U.S.C. sec. 5032 (1970).

The third case in the series, *In Re Martin*, 788 F.2d 696 (11th Cir. 1986), involved a person who committed offenses prior to age 18 and federal prosecutors simply chose not to file until after his 21st birthday. The result was that the circuit court declared itself bound to rely on the constraints of *Valdez*, holding that the "crucial date for determining whether the Juvenile Delinquency Act applies is the date on which the government institutes proceedings. . . . a complaint was filed against a seventeen-year-old; however, the government did not bring its indictment until the person was twenty-four years old." *Martin* at 697. This holding seems to ignore the critical fact that defendant Valdez had never "invoked" the

the protection of the JDA, thus, no proceedings were "instituted," by consenting on the record to the federal government going forward against him as a juvenile, which seems to have been the reason for the *Valdez* ruling that the JDA protections would not be afforded, *not* that the government has discretion to determine when the JDA applies, and, more importantly, when the court will have subject matter jurisdiction.

In the fourth case in the series, *United States v. Hoo*, 825 F.2d 667 (2nd Cir. 1987), Hoo committed acts before age 18 that would have been federal crimes if committed by an adult, but the government exercised its discretion and indicted 13 days after his 21st birthday. Finding no prosecutorial misconduct, the "district court held that Hoo did not have an absolute right to the procedural protections of the JDA because the statute did not require that prosecutions for acts of juvenile delinquency be initiated before the defendant's twenty-first birthday." *Hoo* at 668. The district court noted, though, that were it to be proved that the delay in indicting was due to prosecutorial misconduct, then Hoo would be entitled to the protections of the JDA. *Hoo* at 668. The circuit court, in reviewing the district court's decision, stated, "In applying Section 5031 (of the JDA), the courts have consistently held that a defendant who is alleged to

have committed a crime before his eighteenth birthday may not invoke the protection of the Juvenile Delinquency Act if criminal proceedings begin after the defendant reaches the age of twenty-one." *Hoo* at 669-70, citing *Martin*, 788 F.2d 696, 697-98; *Valdez*, 713 F.2d 430, 432-33; *Doe*, 631 F.2d 110, 112-13. The circuit court refused to adopt Hoo's interpretation of the JDA, who argued the court "should construe the statute to extend its protection to defendants who could have been prosecuted earlier but, through no fault of their own, are indicted after their twenty-first birthdays." *Hoo*, 825 F.2d at 670. The circuit court said it believed that such an interpretation would make no sense where criminal charges are filed after age 21 and the JDA clearly only applies to "juveniles," defined as persons who have not attained their 21st birthdays. The circular nature of this reasoning is obvious. Yet, the circuit court goes on to further reject Hoo's due process argument that to not find he is entitled to the protections of the JDA, and, thus, requiring the government to proceed against him as a juvenile when it knew of and could have filed against him before age 21, would remove "the timing of a decision to prosecute" from the government, noting "the broad discretion of prosecutors has been rarely subject to judicial review." *Hoo* at 670. This reasoning ignores the due process and equal protection

concerns raised by Hoo and blindly relies on the *Doe-Valdez-Martin* series of cases, which are distinguishable: 1) *Doe* - was afforded the protection of the JDA because she was not yet 21; *Hoo* - was over 21 by the time the government filed; 2) *Valdez* - failed to properly invoke the protection of the JDA; *Hoo* - did not; 3) *Martin* - misconstrued *Valdez* to mean that the proceedings are instituted under the JDA when the government says so; *Hoo* - followed *Martin's* erroneous conclusion without further rationale.

This series of cases forms a shaky foundation for determining when acts by minors will result in treatment under the JDA or may subject the individual, who has since reached the age of 21, to treatment as an adult offender for his actions while still a minor. The decision that has been skillfully avoided but is yet to be made is that which Schofield brings to this Court:

> *Should an individual be subjected to greater risk of loss of liberty by being subjected to the harshest penalties available in the district court because of the passage of time where the offenses were not criminal by statutory definition when committed but, by virtue of the passage of time, the individual has attained the age of 21 and is no longer able to be seen in the juvenile court?*

D. Federal Cases Addressing FDJA in Context of Jurisdiction

In 1995, a district court judge in the Second Circuit in *United States v. Rivera*, 912 F.Supp. 70 (S.D. New York 1995), refused to allow the federal prosecutor to dictate whether the court had subject matter jurisdiction over a person. Specifically, the government obtained an indictment against Rivera as an adult at age 20, having mistakenly believed he was over 18 when the offenses were committed. The government conceded that had it realized the offenses occurred before his 18th birthday, and because the original indictment was delivered at age 20, the JDA would have applied. Rivera turned 21, the government by then realized its error and sought to bring a second indictment against Rivera as an adult and because the JDA no longer applied. The district judge barred prosecution of Rivera as an adult because the government had already indicted him and simply applied the JDA retroactively. The court stated that "by necessity the Act must continue to apply to those defendants who are approaching 21 at the time proceedings are instituted and attain that age before the proceedings are completed. *Rivera* at 75. See also *United States v. Smith*, 851 F.2d 706, 710 (4th Cir. 1988) (it is not contemplated in the Juvenile Delinquency Act that jurisdiction is automatically lost once a defendant reaches

age of 21). This case is distinguished from *Hoo* because the issue of whether the government would have been able to proceed against Rivera as an adult if they had simply waited until after he turned 21 was not before the court; rather, the government had not waited, stated the court, and so the government must comply with the JDA. *Rivera*, 912 F.Supp. at 75-76.

The district judge in *Rivera* also remarked, "it is true that the provisions of the Act would not have been invoked if the Government had waited until after Rivera turned 21." *Rivera* at 75, citing *Hoo*, 825 F.2d at 670. There is no further explanation about how the government would have been obligated to proceed had it waited to indict initially after Rivera had turned 21 — or as in Schofield's case — where the purported victims waited some five years to report the acts and Schofield had turned 22. The mere passage of time surely should not convert what is statutorily defined as a civil act of juvenile delinquency into criminal conduct, subject to adult prosecution. This would be tantamount to creating subject matter jurisdiction out of whole cloth. The district judge in *Rivera*, accurately or not, admitted that the government's "certification is a jurisdictional requirement, and without it I do not have jurisdiction over Rivera." *Rivera*, 912 F.Supp. At 76, citing *United States v.*

v. Chambers, 944 F.2d 1253, 1259 (6th Cir. 1991) (certification of juvenile is a "'prerequisite to the district court's subject matter jurisdiction in cases where the government proceeds against juveniles accused of performing acts which would be federal crimes if committed by adults.'"). Thus, if it is a prerequisite to the district court having subject matter jurisdiction that a juvenile be adjudicated/certified as an adult, then it stands to reason that if the government fails to bring an action to do so in a timely manner, e.g., before the juvenile reaches age 21 under the plain language of the federal act, then the government loses the ability to prosecute because there is no way to attain subject matter jurisdiction. Subject matter jurisdiction is defined by statute, not conferred by default.

Finally, the issue that was never raised in the preceding cases -- and which Schofield now brings to this Court -- namely, subject matter jurisdiction, was addressed in *United States v. Chambers*, 944 F.2d 1253 (6th Cir. 1991). Two of the 22 persons named in this criminal prosecution were actually under 18 when their offenses were committed; yet, the government proceeded against them as adults, ignoring the JDA. At the conclusion of the government's case-in-chief, they moved for dismissal, citing the government's noncompliance with the JDA. The government responded by

tendering a motion to certify them as adults. The district court denied the defendants' motions. The circuit court ultimately vacated that order, finding that the JDA did apply, but that the government's motion to certify was timely. The case was remanded to the district court for further proceedings (presumably on the motion to certify). In arriving at this decision, the circuit court focused on subject matter jurisdiction. The district court had concluded that "the certification requirement pertained to personal, rather than subject-matter, jurisdiction and that [defendants] waived the issue of personal jurisdiction by failing to timely object." *Chambers* at 1257. The circuit court disagreed. The court noted that statutes codifying criminal conduct conferred subject matter jurisdiction upon *adults* when they commit the defined acts, but recognized that the district court could only find subject-matter jurisdiction over juveniles if "there exists some specific constitutional or statutory provision expressly or impliedly conferring such jurisdiction." (e.g., adult certification after a hearing) *Chambers* at 1257-58. The court went on to say of the policies behind the JDA:

> Our review of this legislative policy and of the structure of the FJDA, . . . leads us to conclude that the FJDA impliedly revoked the district courts' preexisting, largely unrestricted subject-matter jurisdiction over criminal prosecutions against juveniles. The FJDA accomplished this result, we believe, by effectively establishing that the acts which federal statutes declare to be criminal are generally noncriminal when committed by juveniles. As noted, juveniles committing these acts merely enter into a state of "juvenile delinquency," defined as a "violation of a law of the United States committed by a person prior to his eighteenth birthday which *would have been a crime* if committed by an adult." 18 U.S.C. sect. 5031 (emphasis added). If juveniles generally commit no "crimes" when performing these acts, the district court and government cannot rely upon the criminal statutes as a basis for the court's assumption of jurisdiction over the prosecution of juveniles.

Id at 1258-59. See also 18 U.S.C. sec. 5032.

The court noted the exception that is the certification procedure. If, after a hearing by the district court and certain statutory criteria are found, then a juvenile can be tried as an adult. The circuit court in *Chambers* ultimately "conclude[d] that the district court lacked jurisdiction over [defendants'] cases" absent adult certification findings. *Chambers*, 944 F.2d at 1260. The framework is similar to Utah's statutory scheme where juvenile acts are *noncriminal*, in fact, they are statutorily defined as *civil* acts. Utah Code Ann. sect. 78-3a-117 (2000). While there are two separate Utah state courts – the

juvenile court and the district court – they are each granted exclusive, original subject matter jurisdiction. The juvenile court hears cases involving civil acts committed by minor children that would be crimes if they were committed by adults, and the district court hears cases involving crimes committed by adults.

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CONCLUSION

If acts committed by minor children are civil and noncriminal in nature, and if the Utah juvenile court has exclusive original subject matter jurisdiction over acts committed by minor children, then the Utah Supreme Court's decision that the district court had jurisdiction over Schofield's offenses cannot comport with due process or equal protection guarantees. If the Utah juvenile court has subject matter jurisdiction and it is exclusive and original, then the district court cannot also have jurisdiction with no specific legislative grant, and the Utah Supreme Court's decision is in violation of Schofield's due process and equal protection guarantees.

The inevitable result is that neither the Utah juvenile court n the district court has *both* personal and subject matter jurisdictio under the statutory definitions. The juvenile court has subject matt jurisdiction because the acts involved were allegedly committed b Schofield before he was 18 years of age, but the juvenile court may n have personal jurisdiction of Schofield because he was over 22 whe the acts he allegedly committed were reported to the county attorne for a filing decision. The district court may have personal jurisdictio over Schofield because he was over the age of majority when th matter was presented for filing, but the district court does not hav subject matter jurisdiction over the acts complained of because the were not *criminal* acts and there is no other statute conferring subje matter jurisdiction to the district court. To the contrary, the juvenil court has exclusive, original jurisdiction over the subject matter.

This Court should grant review in order to settle the matter o subject matter jurisdiction in cases involving minors who comm offenses that would be criminal if committed by an adult, but who ar not charged until after age 21. The issue threatens Schofield's physical liberty and equally effects federal charged parties who migh otherwise be afforded the protection of the JDA. The issue plague not only the Utah courts and those who come before them, bu various of the federal circuits as well. In Utah, at least, individuals

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like Schofield are being subjected to great risk of deprivation of their physical and individual liberties, including mandatory incarceration for substantial terms for their civil indiscretions committed as minor children.

DATED this 17 day of April, 2003.

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2002 UT 132

This opinion is subject to revision before final publication in the Pacific Reporter.

IN THE SUPREME COURT OF THE STATE OF UTAH

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State of Utah	:	No. 20000637
Plaintiff and Appellee,	:	
v	:	FILED
Wade N. Schofield,	:	December 27, 2002
Defendant and Appellant.	:	

Second District, Farmington
The Honorable Rodney S. Page

Attorneys: Mark L. Shurtleff, Att'y Gen., Kris C. Leonard, Asst. Att'y Gen., Salt Lake City, and Brian J. Namba, Farmington, for plaintiff
Laura K. Thompson, Ogden, for defendant

RUSSON, Justice:

¶1 Wade N. Schofiled ("Schofield") appeals a decision from the Second District Court of Utah ("district court") denying his motion to dismiss for lack of jurisdiction. Schofield claims that his case properly belongs

before the juvenile court, while the State contends that the district court has jurisdiction. We affirm and remand to the district court for trial on the merits.

BACKGROUND

¶2 The facts and procedural history are not in dispute. On November 16, 1999, when Schofield was more than twenty-two years old, [1] the Division of Child and Family Services ("DCFS") in Utah County faxed a report of child sexual abuse to the Syracuse Police Department ("SPD") in Davis County. The report alleged that Schofield had , several years earlier, sexually abused J.S. and C.S., his nieces. Detective Mark Sessions ("Sessions") contacted DCFS in Utah County and interviewed the alleged victims on November 22, 1999. In the interviews, both J.S. and C.S. confirmed allegations that Schofield had sexually abused them when he was sixteen or seventeen years old and they were six aor seven years old, respectively.

¶3 Sessions contacted Schofield on November 23, 1999, and arranged an interview at SPD. In the course of the interview, Schofield made incriminating statements. Accordingly, Sessions referred the case to the Davis County Attorney, who filed the information in the district court on March 13, 2000. Based on conduct alleged to have occurred on or about September 1, 1994, Schofield was charged with one county of rape of a child, a first degree felony in violation of Utah Code Ann. § 76-5-404.1 (1995).

---

[1] Schofield turned twenty-one on September 30, 1998.

¶4 Schofield moved to dismiss the case, arguing that because the alleged events occurred while he was a minor the case properly belongs before the juvenile court. The district court denied the motion, ruling that the juvenile court lost any jurisdiction over Schofield when he turned twenty-one, and that he was subsequently under jurisdiction of the district court.

¶5 On September 27, 2000, this court granted Schofield's petition for interlocutory review of the district court's decision.

STANDARD OF REVIEW

¶6 At issue in this case are the relative jurisdictions of the district and juvenile courts, which are established by statute. See generally Utah Code Ann. § § 78-3-4, 78-3a-104 (1996) (delineating the respective jurisdictions of the district and juvenile courts). The case is therefore one of statutory interception, a question of law we review on appeal for correctness. State v. Burns, 2000 UT 56, ¶ 15, 4 p. 3d 795; State v. Larsen, 865 P.2d 1355, 1357 (Utah 1993); State v. Petersen, 810 P.2d 421,424 (Utah 1991).

ANALYSIS

I. JURISDICTION OF THE JUVENILE COURT

¶7 Section 78-3a-104 of the Utah Code provides in pertinent part for the jurisdiction of the juvenile court as follows:

> (1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in

proceedings concerning:

> (a) a minor who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has
>
> > violated any law or ordinance before becoming 18 years of age . . . .

Utah Code Ann. § 78-3a-104 (1) (a) (1996).[2]

¶8 "When interpreting statutes, we determine the statute's meaning by first looking to the statute's plain language, and give effect to the plain language unless the language is ambiguous.'" Wilson Supply, Inc. v. Fradan Mfg. Corp., 2002 UT 94, ¶ 14, 54 P.3d 1177 (quoting Blackner v. State Dep't of Transp., 2002 UT 44, ¶ 12, 48 P.3d 949); see

---

[2]The 1996 version of section 78-3a-104 (1) (a) is substantively identical to the 1994 version of section 78-3a-16 (1) (a). Schofield asserts that the controlling statutes in this case are the 1994 versions existing at the time of his alleged offenses. He is incorrect. As the main body of the opinion makes clear, the operative issue for determination of jurisdiction of the juvenile court is the age of the offender at commencement of criminal proceedings. Nonetheless, as the 1994 and 1996 versions of the statutes are substantively identical, the analysis remains the same. Thus, Schofield is also incorrect in asserting that prosecuting him in the district court for crimes he is alleged to have committed as a juvenile is an ex post facto application of the law. The same is true of all references to relevant sections of the 1996 version of the Utah Code.

also State Dep't of Natural Res. V. Huntington-Cleveland Irrigation Co., 2002 UT 75, ¶ 13, 52 P.3d 1257. Furthermore, "[t]he plain language of a statute is to be read as a whole, and its provisions interpreted in harmony with other provisions in the same statute and 'with other statutes under the same and related chapters.'" Lyon v. Burton, 2000 UT 19, ¶ 17, 5 P.3d 616 (quoting Roberts v. Erickson, 851 P.2d 643, 644 (Utah 1993) (per curiam) (further citations omitted)); see also Silver v. Auditing Div., 820 P.2d 912, 914 (Utah 1991); Osuala v. Aetna Life & Cas., 608 P.2d 242, 243 (Utah 1980).

¶9 The plain language of the statute in question creates two classes of offenders for determining jurisdiction of the juvenile court: (1) those who commit crimes while under age eighteen and are charged before reaching age twenty-one, and (2) those who commit crimes while under age eighteen and are charged after reaching age twenty-one. Only the first class of offenders comes under the jurisdiction of the juvenile court. This plain language reading is also in harmony with another provision in the same statute. Section 78-3a-501 reads in relevant part:

> (1) If, during the pendency of a criminal or quasi-criminal proceeding in another court, including a preliminary hearing, it is determined that the person charged is under 21 years of age and was less than 18 years of age at the time of committing the alleged offense, the court shall transfer the case to the juvenile court . . . .

Utah Code Ann. § 78-3a-501 (1) (1996). Thus, the legislature clearly contemplated that the juvenile court would have

exclusive original jurisdiction only over those criminal defendants who (1) are younger than twenty-one years of age and (2) were under eighteen years of age when the crime was committed.

¶10 In the present case, Schofield was more than twenty-two years old when criminal proceedings against him commenced. His age manifestly places him outside the statutory jurisdiction of the juvenile court, and there are no statutory exceptions relevant to Schofield that would bring him within the jurisdiction of the juvenile court. Accordingly, we find that the district court was correct in determining that Schofield does not properly belong before the juvenile court in this matter. See State v. Hodges, 2002 UT 117, __ P.3d __.

II. JURISDICTION OF THE DISTRICT COURT

¶11 Section 78-3-4 establishes the jurisdiction of the district court as follows:

> (1) the district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.

Utah Code Ann. § 78-3-4 (1) (1996). Schofield argues, however, that placing him in the jurisdiction of the district court to be tried as an adult violates the uniform operation of laws provision of the Utah Constitution, Utah Const. art. I, § 24 ("All laws of a general nature shall have uniform operation."). Schofield contends that section 78-3a-104 (1) (a) creates disparate treatment of similarly situated persons – those charged with crimes committed as juveniles – for no legally justifiable reason. To use age at time of

commencement of legal proceedings as the sole criterion to determine jurisdiction, he asserts, is arbitrary, has no reasonable basis stated in the statute, and is not reasonably related to any state interest. We disagree.

A. Mohi Analysis of Utah Code Ann. sect. 78-3a-104 (1) (a)

¶12 In State v. Mohi, 901 P.2d 991 (Utah 1995), this court stated that

> "for a law to be constitutional under [the uniform operation of laws provision], it is not enough that it be uniform on its face. What is critical is that the operation of the law be uniform. A law does not operate uniformly if 'persons similarly situated' are not 'treated similarly.'"

901 P.2d at 997 (quoting Lee v. Gaufin, 867 P.2d 572, 577 (Utah 1993) (further citations omitted)). At that time, we articulated a two-step assessment for determining whether a statute comports with the uniform operation of laws provision of the Utah Constitution. "'First, a law must apply equally to all persons within a class. Second, the statutory classifications and the different treatment given the classes must be based on differences that have a reasonable tendency to further the objectives of the statute.'" Id. At 997 (quoting Malan v. Lewis, accord Blue Cross & Blue Shield v. State, 779 P.2d 634, 637 (Utah 1989). This requires that we "first determine what classifications . . . are created by the statute. Second, we must determine whether different classes . . . are treated disparately. Finally, if any disparate treatment exists between classes . . . we must determine whether the legislature had any reasonable objective that warrants the disparity." Mohi, 901 P.2d at 997

(citation omitted).

1. Classes Created

¶13 Section 78-3a-104 (1) (a) creates two classes of offenders: (1) those who commit crimes while under age eighteen and are charged before reaching age twenty-one, and (2) those who commit crimes while under age eighteen and are charged after reaching age twenty-one. The first class of offenders comes under the jurisdiction of the juvenile court, and the second class of offenders comes under the jurisdiction of the district court. See Utah Code Ann. §§ 78-3a-104 (1) (a), 78-3-4 (1).

2. Disparate Treatment

¶14 The statute applies equally and predictably to all offenders within both classes, as the assignment of the offender to a particular class by age at the commencement of legal proceedings is quickly and objectively ascertained. If the offender has not yet reached the age of twenty-one at the time charged, the offender is in the jurisdiction of the juvenile court. See Utah Code Ann. § 78-3a-104 (1) (a). If the offender has reached the age of twenty-one at the time charged, the offender is in the jurisdiction of the district court. See Utah Code Ann. §§ 78-3a-104 (1) (a), 78-3-4 (1). The treatment of the two classes is disparate, but the treatment is not arbitrary or without an objective standard.

3. Reasonable Legislative Objective Warranting Disparity

¶15 Section 78-3a-102 states that the purpose of the juvenile court is to

> (a) promote public safety and individual accountability by the imposition of appropriate sanctions on persons who have committed acts in violation of law;
>
> (b) order appropriate measures to promote guidance and control, preferably in the minor's own home, as an aid in the prevention of future unlawful conduct and the development of responsible citizenship;
>
> (c) where appropriate, order rehabilitation, reeducation, and treatment for persons who have committed acts bringing them within the court's jurisdiction; [and]
>
> . . .
>
> (g) consistent with the ends of justice, strive to act in the best interests of the minor[] in all cases and attempt to preserve and strengthen family ties where possible.

Utah Code Ann. § 78-3a-102 (5) (1996).

¶16 The juvenile court's statutory authority is focused on the education, rehabilitation, and treatment of minors, the purpose being to assist young offenders in rebuilding their lives in the ambit of their families. Consistent with this purpose, all cases before the juvenile court are considered civil proceedings. Utah Code Ann. § 78-3a-515 (1) (1996). This furthers a reasonable state interest in preventing youth offenders, who are still in their formative years, from accruing a criminal record and potentially becoming worse or even adult offenders.

¶17 As a tribunal geared toward the special needs of youth offenders, the juvenile court therefore is not designed to deal with adults charged with crimes. When adults do become involved with the juvenile court, its statutory jurisdiction over them is appropriately very limited. For example, the juvenile court has concurrent jurisdiction with the district court over adults who contribute to the delinquency of a minor. In this situation, however, there are statutory guidelines for special proceedings in the juvenile court to try such adult offenders criminally as adults, or even to transfer the adult entirely to the district court. Utah Code Ann. §§ 78-3a-801 to -803 (1996). Thus, the reasonable legislative objective of the juvenile court is maintained, to act in the interest and rehabilitation of minor offenders.

¶18 Under the analysis set out in Mohi, section 78-3a-104 (1) (a) clearly applies equally to all persons within the classes it creates and the disparate treatment given the statutory classes is based on differences that have a reasonable tendency to further the objectives of the statute. It is therefore uniform both on its face and in operation. Accordingly, we hold that section 78-3a-104 (1) (a) comports with the uniform operation of laws provision of the Utah Constitution. [3]

---

[3]Because we find that the statute comports with the uniform operation of laws provision of the Utah Constitution, we need not reach the question of whether it violates the federal Equal Protection Clause. See Blue Cross & Blue Shield v. State, 779 P.2d 634, 637, 645 (Utah 1989); Mountain Fuel Supply Co. v. Salt Lake City Corp., 752 P.2d 884, 890 (Utah 1988).

B. District Court Jurisdiction Over Schofield

¶19 By statute, the district court has "original jurisdiction in all matters civil and criminal." Utah Code Ann. § 78-3-4 (1) (emphasis added). The district court, therefore, has jurisdiction over Schofield in this criminal matter. Schofield is not in the jurisdiction of the juvenile court, and there are no statutory exceptions that place him there. Furthermore, trying Schofield in the district court as an adult for crimes he is alleged to have committed as a minor does not violate the uniform operation of laws provision of the Utah Constitution. Accordingly, we find that the district court was correct in determining that it had proper jurisdiction over Schofield.

CONCLUSION

¶20 For the reasons set forth above, we affirm the decision of the district court and remand the case to be tried on the merits. We also hold that Utah Code Ann. . § 78-3a-104 (1) (a) does not violate the uniform operation of laws provision of the Utah Constitution.

—

¶21 Chief Justice Durham, Associate Chief Justice Durrant, Justice Howe, and Justice Wilkins concur in Justice Russon's opinion.

CERTIFICATE OF MAILING

I hereby certify that on December 27, 2002, a true and correct copy of the foregoing OPINION was deposited in the United States mail to the party(ies) listed below:

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and a true and correct copy of the foregoing OPINION was hand delivered to a personal representative of the following office to be delivered to the party(ies) listed below:

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Honorable RODNEY S. PAGE
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By _____/s/_____
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Case No. 20000637-SC
SECOND DISTRICT, FARMINGTON, 001700315

Supreme Court, U.S.
FILED

(2)

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OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

WADE N. SCHOFIELD,

Petitioner,

VS.

STATE OF UTAH,

Respondent.

On Petition For Writ Of Certiorari
To The Utah Supreme Court

SUPPLEMENTAL APPENDIX

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9 pp

FILED
Jun 30 2000
SECOND
DISTRICT COURT

IN THE SECOND JUDICIAL DISTRICT COURT OF UTAH
DAVIS COUNTY, FARMINGTON DEPARTMENT

THE STATE OF UTAH,

Plaintiff,

v.

WADE N. SCHOFIELD,

Defendant.

RULING ON DEFENDANT'S MOTION TO DISMISS INFORMATION

Case No. 001700315

This matter came before the Court for hearing on June 20, 2000. The defendant was present and represented by Laura K. Thompson. The State was represented by Brian J. Namba and Michael D. DiReda. Counsel for defendant submitted a memorandum in support of this motion, and counsel for the State of Utah submitted a memorandum in opposition to the motion. The Court has carefully considered the submissions of the parties. Being fully informed, the Court enters the following findings of fact

and conclusions of law:

FINDINGS OF FACT

The Court finds that the following facts support its ruling:

1. Defendant was born on September 30, 1977.

2. On November 16, 1999, Utah County office of the Division of Child and Family Services ("DCFS") faxed a child sexual abuse report to the Syracuse Police Department ("SPD"). The report was taken from two alleged victims, J.S. and C.S.

3. The matter was referred to Detective Mark Sessions of the SPD. Detective Sessions contacted DCFS in Provo and arranged interviews with J.S. and C.S.

4. Detective sessions [sic] interviewed J.S. and C.S. on November 22, 1999.

5. During the interviews, both J.S. and C.S. alleged that the defendant had sexually abused them when he was 16-17 years old.

6. Detective Sessions contacted the defendant on November 23, 1999, and asked the defendant to come to the offices of the SPD. Defendant complied, and made statements to Detective Sessions that incrimiate [sic] the defendant. Detective Sessions subsequently referred the matter to the

Davis County Attorney's Office ("DCAO").

7. The DCAO filed the Information on this matter on March 13, 2000.

CONCLUSIONS OF LAW

The issue before the Court is whether the district court has jurisdiction over the defendant with respect to the offenses charged in the Information. Defense counsel argues that jurisdiction of this matter lies in the juvenile court.

Utah Code Annotated § 78-3-4 (1) states: "The district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law." Thus, the district court has jurisdiction over this matter unless there is some constitutional provision or statute which takes it away. Counsel have not pointed to any constitutional provision that divests the Court of jurisdiction over this matter. Rather, defense counsel argues that Utah Code Annotated § 78-3a-104 (1) (a) places jurisdiction over this matter in the juvenile court.

The Court notes that the juvenile courts were created by statute. Thus, the jurisdiction of the juvenile courts is limited strictly to matters delineated in the Juvenile Court Act of 1996 ("the Act"). The only jurisdictional provision in

the Act that is relevant here is found in Utah Code Annotated § 78-3a-104 (1) (a), which provides that the juvenile courts have jurisdiction over "a minor who has violated any . . . state . . . law . . . or a person younger than 21 years of age who has violated any law . . . before becoming 18 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances[.]" This statute gives jurisdiction over criminal matters to the juvenile courts where the defendant is a minor when charged with a crime; it also gives jurisdiction to the juvenile courts where the defendant has committed a crime before the defendant turned 18, and is charged with that crime before the defendant reaches the age of 21. This is the full extent of the jurisdiction of the juvenile courts over criminal matters.

Turning to the facts of this case, it is undisputed that the defendant was less than 18 years old when he allegedly committed the crimes he is charged with. If charges had been filed before the defendant reached 21 years of age, jurisdiction would have been proper only in the juvenile court. However, the Syracuse Police Department and the Davis County Attorney were not even made aware of the alleged conduct of

the defendant until long after his twenty-first birthday.[1] The Information was then filed when the defendant was nearly 22 1/2 years old. Thus, the juvenile court does not have jurisdiction over the defendant, because he does not fit within the juvenile court's statutorily defined jurisdiction. Jurisdiction is proper in the district court, pursuant to Utah Code Annotated § 78-3-4 (1).

The Court further finds that defendant's argument that to prosecute the defendant in the district court would be an unlawful ex post facto application of the law can be summarily dismissed. The jurisdiction provisions cited by the Court were the same at the time of the defendant's alleged offenses as they are now. The Court is not retroactively applying any statute to the defendant. While it is true that the district court would not have been able to exercise jurisdiction over the defendant if he had been apprehended and charged at or near the time of the alleged offenses, that is simply not the case. The defendant would have the Court focus solely on his age at the time of the

---

[1]The defendant turned 21 on September 30, 1998. DCFS reported defendant's alleged conduct to the SPD on November 16, 1999.

However, the plain wording of the statute indicates that the legislature intended to vest jurisdiction in the district courts in all cases where the defendant is less than 18 years of age when an offense is committed, but is more than 21 years of age when charged with the offense. This indicates that the legislature has decided how to deal with individuals in the defendant's situation, and the legislature has directed the courts to look at the age of the defendant at the time charged to determine which court has jurisdiction.

Finally, the Court finds that the prosecution of the defendant in the district court does not violate his right to equal protection. The jurisdictional statutes in question here do not treat similarly situated persons differently. Rather, they ensure than any person who commits a crime while under the age of 18, and who is charged prior to reaching the age of 21, will be prosecuted in the juvenile court system. Similarly, they ensure that any person who commits a crime while under the age of 18, and who is charged after he or she reaches the age of 21, will be prosecuted in the district courts.

The defendant argues that this situation unconstitutionally vests too much discretion in prosecuting attorneys. That argument must be rejected. There is no evidence that the prosecutors in this case exercised any

discretion. Law enforcement authorities were not even notified of the defendant's alleged offense until he was 22 years old. Under the Court's analysis above, the prosecutors had no choice but to file the Information in the district court, because the district court had exclusive jurisdiction over the defendant at that time.

CONCLUSION

Pursuant to the foregoing Findings of Fact and Conclusions of Law, the Court hereby rules that defendant's Motion to Dismiss [the] Information is DENIED. The case will proceed in the district court.

Dated this 29th day of June, 2000,

BY THE COURT:

_____/s/_____
RODNEY S. PAGE
DISTRICT JUDGE

CERTIFICATE OF DELIVERY

I certify that I mailed, postage prepaid, a true and correct copy of the foregoing Ruling on June 30, 2000 to the following:

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Deputy Court Clerk

Supreme Court, U.S.
FILED
JUL 7 2003
OFFICE OF THE CLERK

(3)

No. 02–1768

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2002

WADE N. SCHOFIELD,

Petitioner,

v.

STATE OF UTAH,

Respondent.

On Petition for Writ of Certiorari
To the Supreme Court of the State of Utah

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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33 pp

QUESTION PRESENTED

I. Should this Court review a state court's unanimous, interlocutory determination that, pursuant to state statute, the district court has jurisdiction over defendant with respect to criminal charges which were filed when defendant was twenty-two years old and which involve crimes he allegedly committed while a minor?

PARTIES TO THE PROCEEDING

The caption of the case contains the names of all the parties.

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No. 02–1768

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2002

WADE N. SCHOFIELD,

Petitioner,

v.

STATE OF UTAH,

Respondent.

On Petition for Writ of Certiorari
To the Supreme Court of the State of Utah

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

The Utah Attorney General, on behalf of the State of Utah, respectfully requests this Court to deny the petition for a writ of certiorari to review the judgment of the Supreme Court of the State of Utah in this case.

OPINION BELOW

The opinion of the Utah Supreme Court is reported at *State v. Schofield*, 2002 UT 132, 63 P.3d 667, and is attached hereto as appendix A.

JURISDICTION

The judgment of the Utah Supreme Court was entered on December 27, 2002. A petition for writ of certiorari was submitted to this Court on March 27, 2003, but was returned by the court clerk due to a deficiency. A revised petition was filed in this Court on April 4, 2003, and a supplemental appendix was filed on June 4, 2003—158 days following entry of the Utah Supreme Court's opinion, as permitted by Rules 13.1, 13.5 and 14.5, Rules of the Supreme Court of the United States. However, this Court lacks jurisdiction under 28 U.S.C. § 1257(a) to review petitioner's claims, as set forth more fully below.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Utah Code Ann. § 78-3-4 (1996)

(complete text is attached in appendix A)

Utah Code Ann. § 78-3a-104 (1996)

(complete text is attached in appendix A).

STATEMENT OF THE CASE
AND
STATEMENT OF RELEVANT FACTS[1]

On November 16, 1999, defendant was over twenty-two years old (R. 106). On that date, the Utah County office of the Division of Child and Family Services ("DCFS") faxed a child sexual abuse report to the Syracuse Police Department ("SPD") (R. 83, 106). The report involved two alleged victims, J.S. and C.S., both of whom were defendants nieces (R. 83-84, 106). The case was given to Detective Mark Sessions, who contacted DCFS in Provo and arranged to interview the alleged victims on November 22, 1999 (R. 83-84, 107). During the interviews, J.S. and C.S. both alleged that defendant had sexually abused them when he was sixteen or seventeen years old and they were six or seven and nine or ten, respectively (R. 84, 107).

Detective Sessions contacted defendant on November 23, 1999, and arranged to speak with him at the SPD (R. 84, 107). At the interview, defendant made incriminating statements (R. 84, 107). Detective Sessions thereafter referred the case to the Davis County Attorney's Office, who filed the information in the district court on March 13, 2000 (R. 84, 107). Based on conduct which allegedly occurred on or about September 1, 1994, defendant was charged with one count of rape of a child, a first degree felony, in violation of Utah Code Ann. § 76-5-402.1 (1995); two counts of sodomy on a child, both first degree felonies, in violation of Utah Code Ann. § 76-5-403.1 (1995); and two counts of aggravated sexual abuse of

---

[1]The case history and relevant facts are taken from defendant's motion to dismiss, the trial court's ruling thereon, and the Information (R. 1-2, 81-93, 106-10). The State stipulated to defendant's recitation of the facts (R. 94).

a child, both first degree felonies, in violation of Utah Code Ann. § 76-5-404.1 (1995) (R. 1-4).

Defendant waived his preliminary hearing, was bound over to the district court, and filed a motion to dismiss the case, arguing that the district court lacked jurisdiction to proceed (R. 72, 81-93). The trial court ultimately denied the motion, holding that the juvenile court lost any jurisdiction it would have had over this matter once defendant turned twenty-one, and that the district court thereafter retained jurisdiction over defendant (R. 106-11).

By order dated September 27, 2000, the Utah Supreme Court granted defendant's petition for interlocutory review of the order (R. 122). That Court ruled that the plain language of the statute granting the juvenile court jurisdiction did not extend to a defendant who was over twenty-one years old when the proceedings commenced, and that there were no statutory exceptions relevant to this defendant to bring him within the juvenile court's jurisdiction. 2002 UT 132, at ¶ 9. The Court then determined that, by statute, the district court had jurisdiction over defendant, and the statute granting the jurisdiction did not violate the uniform operation of laws provision of the Utah Constitution, art. I, § 24. *Id.* at ¶ 11.

ARGUMENTS

THE WRIT SHOULD NOT ISSUE BECAUSE THIS COURT LACKS JURISDICTION OVER PETITIONER'S CLAIM OF ERROR IN THE STATE COURT'S INTERPRETATION OF ITS JURISDICTIONAL STATUTES

A. The State Court Judgment Challenged By Petitioner Concerns An Interlocutory Ruling And, Hence, Is Not Final For Purposes Of Review By This Court

Petitioner originally sought, and was granted, permission to file an interlocutory appeal in the state supreme court from a district court decision denying his motion to dismiss for lack of jurisdiction. He now seeks review of the state supreme court's ruling that undertakes to interpret state jurisdictional statutes for Utah's juvenile and district courts in order to identify the proper forum in which to examine petitioner's responsibility for offenses he is alleged to have committed while a minor.

Petitioner's claim does not merit this Court's discretionary review because he seeks review of an interlocutory order which ultimately remanded the matter to the state judicial district court for further proceedings. This Court's usual practice is not to review interlocutory decisions. *See* 28 U.S.C. § 1257(a) (identifying this Court's certiorari jurisdiction and limiting it to review of "*[f]inal judgments or decrees*") (emphasis added); *see, e.g., Virginia Military Institute v. United States*, 113 S. Ct. 2431 (1993) (opinion of Scalia, J.); *Brotherhood of Locomotive Firemen v. Bangor & Aroostock R.R.*, 389 U.S. 327, 328 (1967). Accordingly, this Court should deny the instant petition.

B. Defendant's Federal Constitution-Based Challenges To The State Court Ruling Were Not Preserved For Review By This Court

This Court ordinarily does not resolve questions that were neither presented to nor passed on by the lower courts. *See, e.g., Taylor v. Freeland & Kronz*, 112 S. Ct. 1644, 1649 (1992); *Yee v. Escondido*, 112 S. Ct. 1522, 1531 (1992) (leaving open the question of whether this Court's refusal to review such a claim is jurisdictional or prudential); *Illinois v. Gates*, 462 U.S. 213, 218-20, *reh'g denied* 463 U.S. 1237 (1983). Petitioner's argument falls within this rule and should not be considered as it was not raised before the state supreme court, despite ample opportunity.

Petitioner outlines four federal cases involving the Federal Juvenile Delinquency Act ["FDJA"] in an attempt to show a parallel between his state-based situation and the federal system. Petition at 7-10. He then outlines other distinguishable federal cases in an effort to convince this Court that, at both the state and federal levels, subject matter jurisdiction over defendants like himself should not exist in the district court absent a formal statutory certification process, begun in the juvenile system and completed prior to the accused's twenty-first birthday. Petition at 11-23. No such process occurred in his case or is required under state statute in his circumstances.

Petitioner did not present this argument in the state courts. *See* Brief and Reply Brief of Appellant in the Utah Supreme Court. He did not cite the federal constitution or any federal cases, he failed to mention the FJDA—around which his petition revolves—and he made no attempt to distinguish between personal and subject matter jurisdiction when providing his interpretation of the relevant state jurisdictional statutes. *Id.* He presented only state law and only

state constitutional arguments. *Id.* Consequently, the state supreme court ruled solely on state constitutional grounds, ultimately finding that the jurisdictional statutes provided for state district court jurisdiction in this matter, and that this interpretation of the relevant jurisdictional statutes did not violate the uniform application of laws provision of the state constitution. 2002 UT 132, at ¶ 19. This Court should therefore deny the instant petition because it presents a claim that the state court had no opportunity to pass upon.[2] *See Monks v. New Jersey*, 398 U.S. 71 (1970) (refusing to entertain on writ of certiorari claim of alleged unconstitutional application of state statute pertaining to disposition of juvenile offenders where state courts were given no opportunity to address it).

[2]Because the petition seeks review of an interlocutory ruling, the State does not address the merits in this response. However, the State will gladly brief the merits of defendant's claims upon this Court's request.

CONCLUSION

For the foregoing reasons, this Court should deny the petition for writ of certiorari.

Respectfully submitted this 7th day of July, 2003.

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APPENDIX A

IN THE SUPREME COURT OF THE STATE OF UTAH

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State of Utah,
Plaintiff and Appellee,

v.

Wade N. Schofield,
Defendant and Appellant.

No. 20000637

FILED
December 27, 2002
2002 UT 132

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Second District, Farmington

The Honorable Rodney S. Page

Attorneys: Mark L. Shurtleff, Att'y Gen., Kris C. Leonard, Asst. Att'y Gen., Salt Lake City, and Brian J. Namba, Farmington, for plaintiff

Laura K. Thompson, Ogden, for defendant

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RUSSON, Justice:

¶1 Wade N. Schofield ("Schofield") appeals a decision from the Second District Court of Utah ("district court") denying his motion to dismiss for lack of jurisdiction. Schofield claims that his case properly belongs before the juvenile court, while the State contends that the district court has jurisdiction. We affirm and remand to the district court for trial on the merits.

BACKGROUND

¶2 The facts and procedural history are not in dispute. On November 16, 1999, when Schofield was more than twenty-two years old,(1) the Division of Child and Family Services ("DCFS") in Utah County faxed a report of child sexual abuse to the Syracuse Police Department ("SPD") in Davis County. The report alleged that Schofield had, several years earlier, sexually abused J.S. and C.S., his nieces. Detective Mark Sessions ("Sessions") contacted DCFS in Utah County and interviewed the alleged victims on November 22, 1999. In the interviews, both J.S. and C.S. confirmed allegations that Schofield had sexually abused them when he was sixteen or seventeen years old and they were six or seven years old and nine or ten years old, respectively.

¶3 Sessions contacted Schofield on November 23, 1999, and arranged an interview at SPD. In the course of the interview, Schofield made incriminating statements. Accordingly, Sessions referred the case to the Davis County Attorney, who filed the information in the district court on March 13, 2000. Based on conduct alleged to have occurred on or about September 1, 1994, Schofield was charged with one count of rape of a child, a first degree felony in violation of Utah Code Ann. § 76-5-402.1 (1995),

two counts of sodomy on a child, both first degree felonies in violation of Utah Code Ann. § 76-5-403.1 (1995), and two counts of aggravated sexual abuse of a child, both first degree felonies in violation of Utah Code Ann. § 76-5-404.1 (1995).

¶4 Schofield moved to dismiss the case, arguing that because the alleged events occurred while he was a minor the case properly belongs before the juvenile court. The district court denied the motion, ruling that the juvenile court lost any jurisdiction over Schofield when he turned twenty-one, and that he was subsequently under jurisdiction of the district court.

¶5 On September 27, 2000, this court granted Schofield's petition for interlocutory review of the district court's decision.

STANDARD OF REVIEW

¶6 At issue in this case are the relative jurisdictions of the district and juvenile courts, which are established by statute. *See generally* Utah Code Ann. §§ 78-3-4, 78-3a-104 (1996) (delineating the respective jurisdictions of the district and juvenile courts). The case is therefore one of statutory interpretation, a question of law we review on appeal for correctness. *State v. Burns*, 2000 UT 56, ¶ 15, 4 P.3d 795; *State v. Larsen*, 865 P.2d 1355, 1357 (Utah 1993); *State v. Petersen*, 810 P.2d 421, 424 (Utah 1991).

ANALYSIS

I. JURISDICTION OF THE JUVENILE COURT

¶7 Section 78-3a-104 of the Utah Code provides in pertinent part for the jurisdiction of the juvenile court as follows:

> (1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:
>
> (a) a minor who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age .
>
> . . .

Utah Code Ann. § 78-3a-104(1)(a) (1996).(2)

¶8 "'When interpreting statutes, we determine the statute's meaning by first looking to the statute's plain language, and give effect to the plain language unless the language is ambiguous.'" *Wilson Supply, Inc. v. Fradan Mfg. Corp.*, 2002 UT 94, ¶ 14, 54 P.3d 1177 (quoting *Blackner v. State Dep't of Transp.*, 2002 UT 44, ¶ 12, 48 P.3d 949); *see also State Dep't of Natural Res. v. Huntington-Cleveland Irrigation Co.*, 2002 UT 75, ¶ 13, 52 P.3d 1257. Furthermore, "[t]he plain language of a statute is to be read as a whole, and its provisions interpreted in harmony with other provisions in the same statute and 'with other statutes under the same and related chapters.'" *Lyon v. Burton*, 2000 UT 19, ¶ 17, 5 P.3d 616 (quoting *Roberts v. Erickson*, 851 P.2d 643, 644 (Utah 1993) (per curiam) (further citations omitted)); *see also Silver v.*

Auditing Div., 820 P.2d 912, 914 (Utah 1991); *Osuala v. Aetna Life & Cas.*, 608 P.2d 242, 243 (Utah 1980).

¶9 The plain language of the statute in question creates two classes of offenders for determining jurisdiction of the juvenile court: (1) those who commit crimes while under age eighteen and are charged before reaching age twenty-one, and (2) those who commit crimes while under age eighteen and are charged after reaching age twenty-one. Only the first class of offenders comes under the jurisdiction of the juvenile court. This plain language reading is also in harmony with another provision in the same statute. Section 78-3a-501 reads in relevant part:

> (1) If, during the pendency of a criminal or quasi-criminal proceeding in another court, including a preliminary hearing, it is determined that the person charged is under 21 years of age and was less than 18 years of age at the time of committing the alleged offense, the court shall transfer the case to the juvenile court . . . .

Utah Code Ann. § 78-3a-501(1)(1996). Thus, the legislature clearly contemplated that the juvenile court would have exclusive original jurisdiction only over those criminal defendants who (1) are younger than twenty-one years of age and (2) were under eighteen years of age when the crime was committed.

¶10 In the present case, Schofield was more than twenty-two years old when criminal proceedings against him commenced. His age manifestly places him outside the statutory jurisdiction of the juvenile court, and there are no statutory exceptions relevant to Schofield that would bring him within the jurisdiction of the juvenile court. Accordingly, we find that the district court was

correct in determining that Schofield does not properly belong before the juvenile court in this matter. *See State v. Hodges*, 2002 UT 117, __ P.3d ___.

II. JURISDICTION OF THE DISTRICT COURT

¶11 Section 78-3-4 establishes the jurisdiction of the district court as follows:

> (1) The district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.

Utah Code Ann. § 78-3-4(1) (1996). Schofield argues, however, that placing him in the jurisdiction of the district court to be tried as an adult violates the uniform operation of laws provision of the Utah Constitution, Utah Const. art. I, § 24 ("All laws of a general nature shall have uniform operation."). Schofield contends that section 78-3a-104(1)(a) creates disparate treatment of similarly situated persons--those charged with crimes committed as juveniles--for no legally justifiable reason. To use age at time of commencement of legal proceedings as the sole criterion to determine jurisdiction, he asserts, is arbitrary, has no reasonable basis stated in the statute, and is not reasonably related to any state interest. We disagree.

A. *Mohi* Analysis of Utah Code Ann. § 78-3a-104(1)(a)

¶12 In *State v. Mohi*, 901 P.2d 991 (Utah 1995), this court stated that

> "for a law to be constitutional under [the uniform operation of laws provision], it is not enough that it be uniform on its face. What is critical is that the operation of the law be uniform. A law does not operate uniformly if 'persons similarly situated' are not 'treated similarly.'"

901 P.2d at 997 (quoting *Lee v. Gaufin*, 867 P.2d 572, 577 (Utah 1993) (further citations omitted)). At that time, we articulated a two-step assessment for determining whether a statute comports with the uniform operation of laws provision of the Utah Constitution. "'First, a law must apply equally to all persons within a class. Second, the statutory classifications and the different treatment given the classes must be based on differences that have a reasonable tendency to further the objectives of the statute.'" *Id.* at 997 (quoting *Malan v. Lewis*, 693 P.2d 661, 670 (Utah 1984) (further citations omitted)); *accord Blue Cross & Blue Shield v. State*, 779 P.2d 634, 637 (Utah 1989). This requires that we "first determine what classifications . . . are created by the statute. Second, we must determine whether different classes . . . are treated disparately. Finally, if any disparate treatment exists between classes . . . we must determine whether the legislature had any reasonable objective that warrants the disparity." *Mohi*, 901 P.2d at 997 (citation omitted).

1. Classes Created

¶13 Section 78-3a-104(1)(a) creates two classes of offenders: (1) those who commit crimes while under age eighteen and are charged before reaching age twenty-one, and (2) those who commit crimes while under age eighteen and are charged after reaching age twenty-one. The first class of offenders comes under the jurisdiction of the juvenile court, and the second class of offenders comes under

the jurisdiction of the district court. *See* Utah Code Ann. §§ 78-3a-104(1)(a), 78-3-4(1).

2. Disparate Treatment

¶14 The statute applies equally and predictably to all offenders within both classes, as the assignment of the offender to a particular class by age at the commencement of legal proceedings is quickly and objectively ascertained. If the offender has not yet reached the age of twenty-one at the time charged, the offender is in the jurisdiction of the juvenile court. *See* Utah Code Ann. § 78-3a-104(1)(a). If the offender has reached the age of twenty-one at the time charged, the offender is in the jurisdiction of the district court. *See* Utah Code Ann. §§ 78-3a-104(1)(a), 78-3-4(1). The treatment of the two classes is disparate, but the treatment is not arbitrary or without an objective standard.

3. Reasonable Legislative Objective Warranting Disparity

¶15 Section 78-3a-102 states that the purpose of the juvenile court is to

> (a) promote public safety and individual accountability by the imposition of appropriate sanctions on persons who have committed acts in violation of law;
>
> (b) order appropriate measures to promote guidance and control, preferably in the minor's own home, as an aid in the prevention of future unlawful conduct and the development of responsible citizenship;

(c) where appropriate, order rehabilitation, reeducation, and treatment for persons who have committed acts bringing them within the court's jurisdiction; [and]

. . .

(g) consistent with the ends of justice, strive to act in the best interests of the minor[] in all cases and attempt to preserve and strengthen family ties where possible.

Utah Code Ann. § 78-3a-102(5) (1996).

¶16 The juvenile court's statutory authority is focused on the education, rehabilitation, and treatment of minors, the purpose being to assist young offenders in rebuilding their lives in the ambit of their families. Consistent with this purpose, all cases before the juvenile court are considered civil proceedings. Utah Code Ann. § 78-3a-515(1) (1996). This furthers a reasonable state interest in preventing youth offenders, who are still in their formative years, from accruing a criminal record and potentially becoming worse or even adult offenders.

¶17 As a tribunal geared toward the special needs of youth offenders, the juvenile court therefore is not designed to deal with adults charged with crimes. When adults do become involved with the juvenile court, its statutory jurisdiction over them is appropriately very limited. For example, the juvenile court has concurrent jurisdiction with the district court over adults who contribute to the delinquency of a minor. In this situation, however, there are statutory guidelines for special proceedings in the juvenile court to try such adult offenders criminally as adults, or even to transfer the adult entirely to the district court. Utah Code Ann. §§

78-3a-801 to -803 (1996). Thus, the reasonable legislative objective of the juvenile court is maintained, to act in the interest and rehabilitation of minor offenders.

¶18 Under the analysis set out in *Mohi*, section 78-3a-104(1)(a) clearly applies equally to all persons within the classes it creates and the disparate treatment given the statutory classes is based on differences that have a reasonable tendency to further the objectives of the statute. It is therefore uniform both on its face and in operation. Accordingly, we hold that section 78-3a-104(1)(a) comports with the uniform operation of laws provision of the Utah Constitution.(3)

B. District Court Jurisdiction Over Schofield

¶19 By statute, the district court has "original jurisdiction in all matters civil and criminal." Utah Code Ann. § 78-3-4(1) (emphasis added). The district court, therefore, has jurisdiction over Schofield in this criminal matter. Schofield is not in the jurisdiction of the juvenile court, and there are no statutory exceptions that place him there. Furthermore, trying Schofield in the district court as an adult for crimes he is alleged to have committed as a minor does not violate the uniform operation of laws provision of the Utah Constitution. Accordingly, we find that the district court was correct in determining that it has proper jurisdiction over Schofield.

CONCLUSION

¶20 For the reasons set forth above, we affirm the decision of the district court and remand the case to be tried on the merits. We also hold that Utah Code Ann. § 78-3a-104(1)(a) does not violate the uniform operation of laws provision of the Utah Constitution.

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¶21 Chief Justice Durham, Associate Chief Justice Durrant, Justice Howe, and Justice Wilkins concur in Justice Russon's opinion.

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1. Schofield turned twenty-one on September 30, 1998.

2. The 1996 version of section 78-3a-104(1)(a) is substantively identical to the 1994 version of section 78-3a-16(1)(a). Schofield asserts that the controlling statutes in this case are the 1994 versions existing at the time of his alleged offenses. He is incorrect. As the main body of the opinion makes clear, the operative issue for determination of jurisdiction of the juvenile court is the age of the offender at commencement of criminal proceedings. Nonetheless, as the 1994 and 1996 versions of the statutes are substantively identical, the analysis remains the same. Thus, Schofield is also incorrect in asserting that prosecuting him in the district court for crimes he is alleged to have committed as a juvenile is an ex post facto application of the law. The same is true of all references to relevant sections of the 1996 version of the Utah Code.

3. Because we find that the statute comports with the uniform operation of laws provision of the Utah Constitution, we need not reach the question of whether it violates the federal Equal Protection Clause. *See Blue Cross & Blue Shield v. State*, 779 P.2d 634, 637, 645 (Utah 1989); *Mountain Fuel Supply Co. v. Salt Lake City Corp.*, 752 P.2d 884, 890 (Utah 1988).

APPENDIX B

UTAH STATUTES UNANNOTATED

§ 78-3-4 Jurisdiction -- Appeals.

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78-3-4 Jurisdiction -- Appeals.

(1) The district court has original jurisdiction in all matters civil and criminal, not excepted in the Utah Constitution and not prohibited by law.

(2) The district court judges may issue all extraordinary writs and other writs necessary to carry into effect their orders, judgments, and decrees.

(3) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.

(4) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.

(5) The district court has appellate jurisdiction to adjudicate trials de novo of the judgments of the justice court and of the small claims department of the district court.

(6) Appeals from the final orders, judgments, and decrees of the district court are under Sections 78-2-2 and 78-2a-3.

(7) The district court has jurisdiction to review agency adjudicative proceedings as set forth in Title 63, Chapter 46b, Administrative Procedures Act, and shall comply with the requirements of that chapter, in its review of agency adjudicative proceedings.

History: L. 1951, ch. 58, § 1; C. 1943, Supp., 104-3-4; L. 1983, ch. 75, § 2; 1986, ch. 47, § 50; 1987, ch. 161, § 305; 1988, ch. 248, § 10; 1991, ch. 268, § 23; 1992, ch. 290, § 8; 1993, ch. 59, § 6; 1996, ch. 198, § 50.

NOTES, REFERENCES, AND ANNOTATIONS

Amendment Notes. -- The 1988 amendment, effective April 25, 1988, rewrote Subsection (5) which formerly read "The district court shall comply with the requirements of Chapter 46b, Title 63, in its review of agency adjudicative proceedings" and made minor stylistic changes in Subsections (1) and (2).

The 1991 amendment, effective January 1, 1992, inserted "Administrative Procedures Act" and made a related punctuation change in Subsection (5), and added Subsection (6).

The 1992 amendment, effective July 1, 1992, deleted the last two sentences in Subsection (6), which read: "Notwithstanding Section 78-3-16.5, civil filing fees in such cases shall be the same as if filed in the circuit court. The party filing a pleading or other document shall, at the time of filing, provide proof that the pleading or other document qualifies for the circuit court fee."

The 1993 amendment, effective March 12, 1993, substituted "the circuit and district court of" for "no such court exists in" and inserted "have been merged into one court under Section 78-1-2 or 78-1-2.4" in the first sentence in Subsection (6).

The 1996 amendment, effective July 1, 1996, deleted former Subsection (3), relating to transfer of cases to circuit court; added new Subsections (3) to (5), redesignating former Subsections (4) and (5) as (6) and (7); and deleted former Subsection (6), providing for jurisdiction when the circuit and district courts have been merged.

UTAH STATUTES UNANNOTATED

§ 78-3a-104 Jurisdiction of juvenile court

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78-3a-104 Jurisdiction of juvenile court -- Original -- Exclusive.

(1) Except as otherwise provided by law, the juvenile court has exclusive original jurisdiction in proceedings concerning:

(a) a minor who has violated any federal, state, or local law or municipal ordinance or a person younger than 21 years of age who has violated any law or ordinance before becoming 18 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

(b) a person 21 years of age or older who has failed or refused to comply with an order of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st birthday; however, the continuing jurisdiction is limited to causing compliance with existing orders;

(c) a minor who is abused, neglected, or dependent, as those terms are defined in Section 78-3a-103;

(d) the determination of the custody of a minor or to appoint a guardian of the person or other guardian of a minor who

comes within the court's jurisdiction under other provisions of this section;

(e) the termination of the legal parent-child relationship in accordance with Part 4, Termination of Parental Rights Act, including termination of residual parental rights and duties;

(f) the treatment or commitment of a mentally retarded minor;

(g) a minor who, in defiance of earnest and persistent efforts on the part of his parents and school authorities as required under Section 53A-11-103, is a habitual truant from school;

(h) the judicial consent to the marriage of a minor under age 16 upon a determination of voluntariness or where otherwise required by law, employment, or enlistment of a minor when consent is required by law;

(i) any parent or parents of a minor committed to a secure youth corrections facility, to order, at the discretion of the court and on the recommendation of a secure youth corrections facility, the parent or parents of a minor committed to a secure youth corrections facility for a custodial term, to undergo group rehabilitation therapy under the direction of a secure youth corrections facility therapist, who has supervision of that parent's or parents' minor, or any other therapist the court may direct, for a period directed by the court as recommended by a secure youth corrections facility;

(j) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

(k) the treatment or commitment of a mentally ill child. The court may commit a child to the physical custody of a local mental health authority or to the legal custody of the Division of Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part 2A. The court may not commit a child directly to the Utah State Hospital; and

(l) the commitment of a minor in accordance with Section 62A-8-501.

(2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive jurisdiction over any traffic offense committed by a minor under 16 years of age and concurrent jurisdiction over the following traffic offenses committed by a minor 16 years of age or older:

(a) Section 76-5-207, automobile homicide;

(b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;

(c) Section 41-6-45, reckless driving;

(d) Section 41-1a-1311, unauthorized control over a motor vehicle, trailer, or semitrailer;

(e) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer for an extended period of time; and

(f) Section 41-6-13.5, fleeing a peace officer.

(3) The court also has jurisdiction over traffic offenses that are part of a single criminal episode filed in a petition that contains an offense over which the court has jurisdiction.

(4) The juvenile court has jurisdiction over questions of custody, support, and visitation certified to it by the district court.

(5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is referred to it by the Division of Child and Family Services or by public or private agencies that contract with the division to provide services to that minor where, despite earnest and persistent efforts by the division or agency, the minor has demonstrated that he:

(a) is beyond the control of his parent, guardian, lawful custodian, or school authorities to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

(b) has run away from home.

(6) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Section 78-3a-602.

History: C. 1953, 78-3a-104, enacted by L. 1996, ch. 1, § 27; 1996, ch. 234, § 15; 1996, ch. 318, § 36.

NOTES, REFERENCES, AND ANNOTATIONS

Amendment Notes. -- The 1996 amendment by ch. 234, effective April 29, 1996, added Subsections (1)(k) and (1)(l), making a related stylistic change, and in Subsection (1)(f) deleted "mentally ill or" before "mentally retarded minor" and "who comes within the court's jurisdiction under other provisions of this section" after "mentally retard minor."

The 1996 amendment by ch. 318, effective April 29, 1996, inserted "Child and" in Subsection (5).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

Effective Dates. -- Laws 1996, ch. 1, § 94 makes the act effective on January 31, 1996.